IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1086 OF 2005

IN

SECOND APPEAL NO.609 OF 1993

Ramchandra Pandurang Shendge & Ors. Applicants

Versus

Kashinath D. Patil and Anr. .. Respondents

Dnyaneshwar Deshmukh for applicants

Mr.M.R.Katikar for respondents

CORAM : P.V.KAKADE, J.

DATE : 21st OCTOBER, 2005.

P.C.:

1. Heard both sides.

2. This is an application praying for setting aside the order dated 4.3.2002 and order passed on 3.1.1994 in C.A.No.6039 of 1993 for restoration after condoning the delay. This application is delayed by 2 years and 273 days.

3. As can be seen from the affidavit in reply on behalf of the respondents that after vacation of the Stay by virtue of Order dated 4.3.2002 the respondent has entered into possession of the suit property. The learned counsel for the applicants vehemently urged that the applicants have unlawfully dispossessed from the property. However, after vacation of the Stay, if the respondent has obtained possession, the question whether it was unlawfully and forcibly taking of possession would be adaptable and no comment is required to be made at this stage on that aspect. However, fact remains that as on today the respondent is in possession of the property by virtue of the vacation of Stay by order dated 4.3.2002. Under these circumstances, in order to meet the ends of justice it is directed both the parties shall maintain status-quo as on today with regard to the suit property pending the appeal and the respondent who is in possession of the suit property at the moment shall not create any third party right or interest on the suit property pending the appeal. With this direction the application stands disposed of with no order as to costs. The Second Appeal No.609 of 1993 stands restore to the file and to be heard on merits as per law.

. It is clarified that the present applicant is not prevented by this order to seek independent remedy,

if he is so advised.